

## **REMARKS/ARGUMENTS**

Claims 1-6 and 21-34 are pending in the present application. Claims 7-20 were previously canceled. Claims 1-6 are amended. Claims 21-34 are added. Support for the amendments and the added claims may be found at least on page 12, lines 18-20, page 15, lines 7-16, page 16, lines 19-20, and in Figures 2 and Figure 4. Reconsideration of the claims is respectfully requested.

Applicants have amended some claims and canceled others. Applicants do not concede that the subject matter encompassed by the earlier presented claims is not patentable over the art cited by the Examiner. Applicants canceled and amended claims in this response solely to facilitate expeditious prosecution of this application. Applicants traverse all rejections and respectfully reserve the right to pursue the earlier-presented claims, and additional claims, in one or more continuing applications.

### **I. Interview**

On April 2, 2009, the Examiner and the undersigned attorney held an interview to discuss the 35 U.S.C. § 103 rejection regarding claims 1-6. The proposed amendments and the cited art references were discussed. No final agreement was reached.

### **II. 35 U.S.C. § 112**

The Examiner has rejected claims 1-6 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicants regard as the invention. This rejection is respectfully traversed.

Applicants amended claim 1, thereby rendering the 35 U.S.C. § 112 rejection of claims 1-6 moot.

### **III. 35 U.S.C. § 103: Obviousness**

The Examiner rejected claims 1-6 under 35 U.S.C. § 103 as unpatentable over *Suzuki, Method and System to Prevent Fraudulent Payment in Credit/Debit Card Transactions, and Terminals Therefor*, U.S. Patent No. 6,612,488 (dated September 2, 2003) (hereinafter “*Suzuki*”) in view of *Marcé et al., Telecommunication System, and Mobile Station, and Database, and*

Method, U.S. Patent No. 6,941,129 (dated September 6, 2005) (hereinafter “*Marce*”), and in further view of *Obradovich et al.*, Personal Communication and Positioning System, U.S. Patent No. 6,515,595 (dated February 4, 2003) (hereinafter “*Obradovich*”). This rejection is respectfully traversed.

Applicants first address this rejection with respect to amended claim 1. Amended claim 1 is as follows:

A computer implemented method for authorizing transactions against an account for a transaction occurring over an internet site, the computer implemented method comprising:

- associating a transaction account with a set of communication devices;
- storing the set of communication devices with a set of corresponding identification numbers in a database for the transaction account, wherein each communication device from the stored set of communication devices is adapted to transmit a physical location of the each communication device;
- associating a home address with a given identification number for a single communication device, wherein the home address corresponds to the home address of a user on the transaction account, and wherein the single communication device is one of the stored set of communication devices;
- receiving a transaction request for the transaction occurring on the internet site, wherein the transaction request comprises an account number associated with the transaction account;
- obtaining a location of the single communication device;
- comparing the location of the single communication device with the location of the home address; and
- responsive to detecting a match between the location of the single communication device with the location of the home address, authorizing the transaction occurring over the internet site.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). The prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In determining obviousness, the scope and content of the prior art are... determined; differences between the prior art and the claims at issue are... ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or non-obviousness of the subject matter is determined. *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

“Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR Int’l. Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (April 30, 2007). “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)). In this case, the Examiner failed to state a *prima facie* case of obviousness because the cited prior art references fail to teach or suggest all of the elements of amended claim 1.

First, the cited prior art fails to teach or suggest “receiving a transaction request for the *transaction occurring on the internet site*, wherein the transaction request comprises an account number associated with the transaction account,” as in amended claim 1.

A portion of *Suzuki* recites as follows:

The present invention enables secure, valid card payments in credit transactions to be performed, preventing fraudulent card use even in cases of loss or theft of a card or of information theft. During a transaction authorization process using a transaction terminal disposed in a *credit transaction member store* and connected with a host computer, user validation, or credit administration is carried out using by using a portable communication terminal to input to the host computer identify information has been previously registered in the portable communication terminal and/or location information for the portable communication terminal and/or location information for the portable communication terminal.

*Suzuki*, Abstract (emphasis added).

This portion of *Suzuki* discloses performing credit card validation using a portable communication terminal at a credit transaction member store. However, neither this portion nor any other portion of *Suzuki* teaches “receiving a transaction request for the *transaction occurring on the internet site*, wherein the transaction request comprises an account number associated with the transaction account”, as in amended claim 1.

*Suzuki* entirely fails to teach or suggest user validation of a credit transaction for anything other than a credit transaction member store. *Suzuki* fails to teach or suggest transactions *occurring on an internet site*.

Assuming, *arguendo*, that Suzuki's method is utilized for a transaction occurring over the internet site, even though Suzuki does not disclose a method for performing a transaction occurring over the internet site, Suzuki would fail to provide a secure method for the transaction to occur. The disclosure of Suzuki for authorizing a credit request from a credit transaction member store is insufficient for providing a secure method for authorizing a credit transaction occurring over an internet site as will be further described below.

Since Suzuki fails to teach all of the elements of amended claim 1 for authorizing a transaction occurring on an internet site, utilizing the method and system in Suzuki would fail to provide a secure transaction for a credit card request. Neither *Marce* nor *Obradovich* make up for *Suzuki*'s deficiencies. Due to the failure to teach or suggest all of the claim limitations of amended claim 1, under the standards of *In re Royka*, the cited prior art fails to make amended claim 1 obvious.

Second, the cited prior art also fails to teach or suggest, "associating a *home address* with a given identification number for a single communication device, wherein the home address corresponds to the *home address of a user on the account*, and wherein the single communication device is one of the stored set of communication devices", as in amended claim 1.

*Suzuki* recites as follows:

Credit card **200** is the credit card for which such information as the card number, cardholder name, and expiration date resides in the credit company computer. Transaction terminal **300** located in the member store **3000** is a credit card transaction device. The card transaction terminal sends the card information for credit card **200** through network **500** to the host computer/transaction authorization computer **400** of the credit card company, requests credit administration, and issues a bill in a case where the result of a credit administration is that settlement is possible. Host computer/transaction authorization computer **400** has in its database credit card information and private information for the cardholder, the card history, and member store information such as the member store number, store name, and store location. When a request for the credit information is received, the host computer searches for the credit information corresponding to the card information and the amount of the purchase, and determines whether the card can be used. The wireless network **600** performs the switching between cellular phone **100** and general network **500**.

*Suzuki*, column 6, lines 37-57.

Here, *Suzuki* discloses using a transaction terminal in a credit member store to transmit credit card information over a network to a host computer. However, neither this portion of *Suzuki* nor any other portion of *Suzuki* teaches or suggests, “associating a home address with a given identification number for a single communication device, wherein the home address corresponds to the home address of a user on the transaction account, and wherein the single communication device is one of the stored set of communication devices”, as in amended claim 1.

*Suzuki* entirely fails to teach or suggest associating *a single communication device* with a *home address of a user*. *Suzuki* only discloses performing user validation at a credit card transaction member store using credit card transaction terminal at the store and a portable communication terminal. *Suzuki* does not teach or suggest associating a single communication device with *any* location and storing said association in a database, let alone, teaching or suggesting associating a single communication device with a home address of a user on the transaction account. Instead, *Suzuki* discloses comparing the location of a portable communication terminal with the location of a credit card transaction member store. However, no pre-associated status is given with the credit card transaction member store and the portable communication terminal. Further, a credit card transaction member store is not equivalent to a home address of a user on an account associated with a transaction. Thus, *Suzuki* is entirely devoid of associating a single communication device with a home address of a user on the transaction account, as in amended claim 1.

Moreover, *Marce* and *Obradovich* fail to make up for *Suzuki*’s deficiencies. *Marce* discloses:

Thereto, the telecommunications system according to the invention is characterized in that said database comprises subscriber-information related to said identification code for allowing at least a part of said subscriber-information at least to be exposed to at least one further subscriber, with said mobile station comprising a transmitter for transmitting an update code to said network via at least one fixed station, and with said network comprising a receiver for receiving said update code for updating at least a part of said subscriber-information stored in said database.

*Marce*, column 1, lines 40-50.

*Marce* is directed to a system combining a network of fixed stations that allows for subscriber information to be exposed to an other subscriber by transmitting an update code to at least one fixed station in the network of fixed stations. However, *Marce* entirely fails to teach or suggest, “associating a home address with a given identification number for a single communication device, wherein the home address corresponds to the home address of a user on the transaction account, and wherein the single communication device is one of the stored set of communication devices,” as in amended claim 1. In fact, this element of amended claim is completely unrelated to the teachings and suggestions of *Marce*, as seen by the above-cited portion of *Marce*. Further, *Obradovich* fails to teach this missing element of *Marce*. Due to the large differences between amended claim 1 and the cited prior art, one of ordinary skill would not have an apparent reason to combine the cited prior art.

Third, the cited prior art also fails to make amended claim 1 obvious, because the cited prior art fails to teach or suggest, “comparing the location of the single communication device with the location of the home address,” as in amended claim 1.

As previously discussed, *Suzuki* entirely fails to teach or suggest anything regarding a credit card authorization process for a transaction occurring over an internet site and fails to teach or suggest anything regarding associating a single communication device with a home address of a user on the account used for the transaction occurring over an internet site. Thus, *Suzuki* entirely fails to teach or suggest, “*comparing the location of the single communication device with the location of the home address*,” as in amended claim 1. *Marce* also fails to teach or suggest this missing element.

*Obradovich* discloses using a personal communication device during a credit card transaction authorization, whereby the personal communication device includes a location positioning device. However, *Obradovich* fails to teach or suggest, “comparing the location of the single communication device with the location of the home address,” as in amended claim 1.

*Obradovich* recites as follows:

In step **1362**, the request for credit is transmitted to a credit authorizer. In step **1364**, the credit authorizer determines whether credit authorization is appropriate in view of the credit authorizer’s prior art credit authorization practices. Such prior art practices include the use of credit limits, past credit usage, and other factors. If the credit authorizer determines that credit authorization according to prior art practices is not appropriate, then credit authorization is denied in step **1366**. If credit authorization

according to prior art practices is appropriate, then the credit authorizer transmits an interrogatory to the individual's PCD in step **1368**. In step **1370**, the credit authorizer waits a predetermined time for a response from the PCD. In step **1371** the credit authorizer determines if a response from the PCD has been received. If a response from the PCD has been received, the credit authorizer determines if the PCD location is consistent with the request for credit in step **1372**. This may be accomplished by determining if the PCD is at the location from which credit was requested. If the reported location is consistent with the request for credit, then the process grants or authorizes credit in step **1366**. If no response is received from the PCD, the credit authorizer determines if previous PCD reported locations are consistent with the location from which credit was requested in step **1374**. For example, the credit authorizer may have received responses from previous requests for position from the PCD, or an e-mail address of the credit authorizer may have been entered by the individual for AUTO-TIMED or MOVE position updates. If the previous location is consistent with the request for credit, then the process grants or authorizes credit in step **1378**. If the previous locations are not consistent with the request for credit, the process denies credit in step **1366**.

*Obradovich*, Abstract.

Here, *Obradovich* discloses comparing the reported location of a personal communication device (PCD) with a location corresponding to a credit request utilizing a personal communication device having a location positioning device. However, *Obradovich* only discloses comparing the location of a credit request to a *current or past location* of the personal communication device.

*Obradovich* does not teach or suggest "comparing the location of the single communication device with the location of the home address," as in amended claim 1. Nor does *Obradovich* teach or suggest the prior stated elements of 1) receiving a transaction request for the transaction occurring on the internet site or 2) associating a home address of a user on a transaction account with a single communication device. Thus, it logically follows that *Obradovich* also fails to teach or suggest authorizing a credit transaction when the comparing of a location of the single communication device and the location *of the home address* are a match.

One of ordinary skill in the art would have no apparent reason to conclude that *Obradovich* teaches or suggests this element of amended claim 1. Since the cited prior art entirely fails to teach or suggest all of the elements of amended claim 1, amended claim 1 non-obvious.

Claims 23 and 29 are independent claims that parallel amended claim 1. For the reasons cited above, claims 23 and 29 are non-obvious over the cited prior art.

Claims 2-6, 21-22, 24-28, and 30-34 depend on independent claims 1, 23, and 29. By virtue of their dependency, claims 2-6, 21-22, 24-28, and 30-34 are non-obvious over the cited prior art as well. Additionally, claims 2-6, 21-22, 24-28, and 30-34 recite combinations of features not taught or suggested by the cited prior art. For example, claim 2 recites “wherein the comparing of the location of the single communication device with the location of the home address is performed by an account service provider.” The cited prior art fails to teach or suggest comparing the location of the single communication device with the location of the home address. Thus, the cited prior art also fails to teach or suggest that this comparing step is performed by an account service provider.

By this response, the 35 U.S.C. § 103 rejection of claims 1-6 and 21-34 has been overcome.

#### **IV. Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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